

**MINUTES
of the
FIRST MEETING
of the
WATER AND NATURAL RESOURCES COMMITTEE**

**June 5, 2014
State Capitol, Room 322
Santa Fe**

The first meeting of the Water and Natural Resources Committee was called to order on Thursday, June 5, 2014, at 9:20 a.m. by Representative George Dodge, Jr., chair, in Room 322 of the State Capitol in Santa Fe.

Present

Rep. George Dodge, Jr., Chair
Sen. Phil A. Griego, Vice Chair
Rep. Dona G. Irwin
Rep. Larry A. Larrañaga
Sen. Sander Rue
Rep. Mimi Stewart
Rep. James R.J. Strickler
Sen. Peter Wirth

Absent

Rep. Phillip M. Archuleta
Rep. Paul C. Bandy
Sen. Joseph Cervantes
Rep. Brian F. Egolf, Jr.
Rep. William "Bill" J. Gray
Rep. Emily Kane
Sen. George K. Munoz
Sen. Cliff R. Pirtle
Sen. Benny Shendo, Jr.
Rep. Don L. Tripp
Sen. Pat Woods

Advisory Members

Sen. Carlos R. Cisneros
Rep. Sharon Clahchischilliage
Rep. Anna M. Crook
Rep. Nora Espinoza
Rep. Candy Spence Ezzell
Sen. Ron Griggs
Rep. James Roger Madalena
Rep. W. Ken Martinez
Sen. Cisco McSorley
Sen. Gerald Ortiz y Pino
Rep. Vickie Perea
Sen. Nancy Rodriguez
Sen. John C. Ryan
Rep. Tomás E. Salazar
Sen. John Arthur Smith
Rep. Jeff Steinborn

Rep. Cathrynn N. Brown
Sen. Pete Campos
Rep. Gail Chasey
Sen. Lee S. Cotter
Sen. Stuart Ingle
Sen. Gay G. Kernan
Rep. Rodolpho "Rudy" S. Martinez
Sen. Steven P. Neville
Sen. Mary Kay Papen
Rep. Henry Kiki Saavedra
Sen. William E. Sharer
Rep. Bob Wooley

Staff

Jon Boller, Legislative Council Service (LCS)

Gordon Meeks, LCS

Mark Edwards, LCS

Jeret Fleetwood, LCS

Guests

The guest list is in the original meeting file.

Handouts

Handouts and other written testimony can be found in the meeting file or on the New Mexico Legislature's web site at www.nmlegis.gov.

Thursday, June 5**Introductions**

Representative Dodge began the meeting by having members of the committee and staff introduce themselves.

Status Reports — Office of the State Engineer (OSE) and Interstate Stream Commission (ISC)

Scott Verhines, state engineer, began by introducing several OSE and ISC staff members. He noted that 2014 will be a busy year, and he outlined several of the challenges facing the OSE, including:

- expanding water demands;
- watershed health issues and increased fire hazard;
- ecosystem health and environmental mandates;
- increased consumptive use of water;
- outside threats to New Mexico's jurisdiction over its water;
- infrastructure investment needs;
- interstate compact delivery obligations;
- competition for water resources; and
- economic impact and job creation.

Mr. Verhines went on to explain that the OSE also has several priorities for 2014, including:

- state and regional water planning;
- active water resource management (AWRM);
- defending New Mexico's jurisdiction over water;
- water rights adjudications;
- water project investments and financing;
- management of environmental mandates for water users; and
- the federal Arizona Water Settlements Act.

Amy Haas, ISC, provided the committee with an overview of the state and regional water planning process. She explained that after reviewing the 2003 state water plan in January, the ISC concluded that a full update of the plan is necessary. Ms. Haas said that while New Mexico is in the fourth year of extreme drought, the state has also experienced record levels of precipitation, which suggests a need for increased emphasis on water planning. She also said that regional water plan updates would take place over the next two years and should be completed by December 2015.

Greg Ridgely, OSE, provided the committee with an update on AWRM. He explained that the OSE is currently developing rules that focus primarily on ground water for the lower Rio Grande, noting that the Elephant Butte Irrigation District manages the surface water in the area. Mr. Ridgely said that the rules are designed to ensure that ground water pumping is consistent with water rights as well as developing joint water management plans. He explained that such plans will include procedures in the case that water rights are exceeded, as well as replacement plans in the event of a priority call. Mr. Ridgely went on to note that the OSE is currently meeting with stakeholders in the area and hopes to promulgate rules later this year.

Mr. Verhines said that the OSE is trying to develop a ground water market in the area.

Mr. Verhines also discussed the OSE's efforts to defend New Mexico's jurisdiction over water. He explained that federal agencies in all western states are trying to establish jurisdiction over ground water. Mr. Verhines said that New Mexico is aggressively defending its jurisdiction over water supply and administration in the U.S. Supreme Court, as well as in state court water rights adjudications.

Mr. Ridgely noted that the issue of federal control of state water resources takes many forms, and the lawsuit involving assertions by Texas and the federal Bureau of Reclamation (BOR) that certain New Mexico water users in the lower Rio Grande must obtain a permit from the BOR before pumping water is an extreme example. He also pointed out that this is the third time federal entities have attempted to circumvent New Mexico water courts.

Ms. Haas provided the committee with a time line in the Texas litigation, explaining that New Mexico moved to dismiss the case earlier in the spring. She noted that responses to the motion are due on June 16, with New Mexico's reply brief due on June 30.

Mr. Ridgely provided the committee with an update on the water rights adjudication process. He explained the federal McCarran Amendment of 1952 requires a comprehensive adjudication of all water rights in a river system to determine all federal and Indian water rights. Mr. Ridgely noted that unresolved Indian water rights claims are one of the largest sources of uncertainty in New Mexico's water landscape and that implementation of the three major Indian water rights settlements will help bring some certainty to Indian and non-Indian water users.

Mr. Verhines discussed the issue of capital investment in water projects, noting a need to improve coordination between water project funding programs. He also emphasized the importance of planning in the water project funding process. Mr. Verhines went on to say that a recent New Mexico First town hall meeting regarding water project financing resulted in two major recommendations: invest money more wisely and expand funding sources.

Ms. Haas spoke to the committee about managing environmental mandates for water rights users. She explained that New Mexico has used innovative approaches to balancing the water needs of the federal Endangered Species Act of 1973 activities with compact delivery obligations while still trying to protect the rights of water rights holders. Ms. Haas noted that dedicated endangered species programs are ongoing on the San Juan River, Pecos River and Rio Grande, pointing out that the OSE, ISC and other members of the Middle Rio Grande Endangered Species Collaborative Program continue recovery implementation programs to protect water rights owners and the Rio Grande silvery minnow. However, she also noted that the threat of litigation still exists, with WildEarth Guardians indicating its intention to sue several state and federal entities over compliance with the Endangered Species Act of 1973.

Ms. Haas went on to discuss the Arizona Water Settlements Act, providing the committee with a brief background on the settlement. She explained that the ISC is currently evaluating 15 proposals for use of the funding and will make a final determination before the December 31, 2014 deadline to notify the United States secretary of the interior. Ms. Haas emphasized that the ISC had not already made a decision on any of the proposals, as it is still trying to get as much information as possible on all 15 proposals.

Questions and comments from the committee included:

- federal agencies cutting off livestock access to drinking water on ranching allotments;
- the definition of ranching and grazing allotments;
- that endangered species issues occur all over New Mexico, not just on the middle Rio Grande;
- Governor Martinez's veto of funding for water projects and the use of Water Trust Fund money for water projects this year;
- Indian water rights settlement issues;
- time lines for the Taos and Aamodt settlements;
- potential restructuring of the Water Trust Board;
- legislative frustration over oversight of water project funding;
- regular updates for the committee on the Arizona Water Settlements Act;
- that a decision by the ISC to construct the New Mexico Unit would likely commit the state to provide additional funding for any kind of diversion project;
- the ISC makes the decision on use of funding from the Arizona Water Settlements Act;
- the process for negotiation of Indian water rights settlements;
- the recent reluctance of the federal government to fund large portions of massive water projects; and

- that each region of the state is different, and water plan developers must remain mindful of that and tailor plans to fit each region.

Work Plan and Meeting Schedule

The committee developed a work plan and meeting schedule. The following topics were included in the work plan:

- long-term financing of forest and watershed treatment/restoration;
- forest health and fire;
- water project financing;
- the Acequia Commission and acequia issues;
- a drought survey/water vulnerabilities study;
- OSE and ISC updates, reports and issues;
- farm-to-table/healthy food in schools programs;
- the Middle Rio Grande Levee Task Force report;
- the Gila River and the Arizona Water Settlements Act;
- the state and regional water planning update;
- beaver management plan;
- drought status and outlook — report from the Drought Task Force;
- agricultural hemp production;
- policy responses to climate change;
- capping of abandoned water, oil and gas wells on public and private property;
- production tax credit for wind/solar energy;
- renewable portfolio standard for geothermal energy;
- Kirtland Air Force Base fuel spill;
- New Mexico Mining Association issues;
- Department of Game and Fish and the elk population;
- access to water for grazing on federal lands;
- regional water authorities;
- the Indian Water Rights Settlement process in adjudications;
- water adjudications and courts; and
- AWRM implementation.

Meeting Dates and Venues

The committee agreed on the following meeting dates and locations:

- June 5 Santa Fe;
- July 1-2 Albuquerque (joint meeting with the New Mexico Finance Authority Oversight Committee);
- September 4-5 Artesia;
- October 6-7 Las Vegas; and
- December 2-3 Santa Fe.

Adjourn

There being no further business, the committee adjourned at 11:40 a.m.